



Agenda Date: 7/23/04
Agenda Item: VB

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

IN THE MATTER OF THE PETITION OF) WATER & WASTEWATER
NEW JERSEY-AMERICAN WATER)
COMPANY, INC., FOR AUTHORIZATION)
AND APPROVAL OF THE GRANT OF A)
MUNICIPAL CONSENT TO NEW JERSEY-) ORDER
AMERICAN WATER COMPANY, INC. TO)
SERVE THE TOWNSHIP OF OXFORD,)
COUNTY OF WARREN) DOCKET NO. WE03020111

(SERVICE LIST ATTACHED)

BY THE BOARD¹:

By petition filed on February 10, 2003, New Jersey-American Water Company, Inc. ("New-Jersey American" or "Company"), a public utility subject to the jurisdiction of the Board of Public Utilities ("Board"), requested Board approval of a municipal consent granted by the Township of Oxford ("Township"). Said consent, which was adopted by the Township on September 18, 2002, in the form of an Ordinance No. 2002-13, authorized New Jersey-American to operate in the entirety of Oxford Township, including two new residential developments planned for the Township.

After appropriate notice, a hearing in this matter, pursuant to N.J.S.A. 48:2-14, was held on December 16, 2003, at the Board's Newark offices before Donna P. Luhn, Esq., the Board's duly designated Hearing Examiner.

At the hearing, New Jersey-American relied upon the testimony of Michael J. Roberti, the Northern Service Delivery Manager. Mr. Roberti is responsible for the distribution systems of the Elizabethtown Water Company and New Jersey-American, Short Hills/Washington operations. He identified the marked Exhibits, including the municipal consent, notice documents, and petition for the municipal franchise. Mr. Roberti testified that New Jersey-American, who serves part of the Township, was asked by several developers and the Township to expand their service area to be able to serve potential impacted residential wells in the Township, as well as the two new residential developments. According to Mr. Roberti, there was a problem with the residential wells in the Township. During the most recent drought, some of the existing residential wells had gone dry or reduced their yield. Currently, residents of the Township are either served by New Jersey-American or private wells--there is no other water provider serving Oxford Township.

¹ Commissioner Frederick F. Butler did not participate in the deliberation or vote in this matter.

Mr. Roberti testified that New Jersey-American has the ability to provide water in the proposed franchise area. The Company also has a sufficient supply of water to serve the potential customers in the proposed franchise area. Mr. Roberti went on to clearly identify the proposed franchise area on the map of Oxford Township and this area's relationship to the existing franchise area. Currently the bulk of New Jersey-American customers are along Route 31 and Pequest Road and over to the intersection of Route 31 and Washington Avenue. Mr. Roberti pointed out the areas of the two new developments, the Coachlight property and the Woodmont property. The Township is not going to provide any funds for main extensions or construction of the water systems for the two proposed developments. The cost would be borne solely by the developers. Mr. Roberti added that New Jersey-American did not pay any fee to the Township for the privilege to serve in the proposed franchise area.

The proposed franchise area is mostly residential. As to the newly added number of customers in the two new residential developments, New Jersey-American's witness stated that the Coachlight development (single family senior citizen housing) would encompass some 286 customers, while the Woodmont development (single family homes) would add another 37 customers. Mr. Roberti provided further clarification that the Coachlight property development has 286 total homes proposed, but 78 of those are in the existing New Jersey-American franchise area in the Township—208, the balance, would be in the proposed expansion area.

According to Mr. Roberti, New Jersey-American does not have an office in Oxford, but rather has an office in Washington. The office is operated with a superintendent in charge. The office is within five miles of the new franchise area.

By letter dated February 6, 2004, the Division of Ratepayer Advocate (Ratepayer Advocate) submitted a letter concerning this docketed matter. The Ratepayer Advocate is not opposed to Board approval of this matter and recommended that the Board Order include conditions labeled #1 and #2 as listed below. The Ratepayer Advocate also stated that its concerns will be satisfied since the Board approval will be limited to the municipal consent and does not indicate authorization to include any specific assets or amounts in rate base, or indicate authorization for any other ratemaking treatment.

The Board would note that the expanded franchise area is situated within "Planning Area 4", as designated by the State Development and Redevelopment Plan ("Plan"). As the facilities contemplated for the construction and installation within the franchise area are serving development that is not within a Plan-designated center, the Board is of the opinion that the development that is the subject of the pending petition is inconsistent with the Plan and, therefore, is inconsistent with the State's Smart Growth policy. Based on the particular facts of this case, the Board is not directing that approval of this municipal consent be withheld on smart growth grounds. However, the Board is in the process of examining all appropriate means, including rulemaking proceedings consistent with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., by which the Board can ensure compliance in future proceedings with the State Plan and the State's Smart Growth policy to the greatest extent possible within the bounds of its jurisdiction.

Based on a review of the entire record, the Board, pursuant to N.J.S.A. 48:2-14, HEREBY APPROVES the consent granted to New Jersey-American Water Company, Inc. for the provision of water services to portions of the Township of Oxford, including the two proposed developments of Woodmont and Coachlight.

In addition, the Board HEREBY ORDERS that all water service provided in the new service area be billed at the level of those rates contained in the current tariff of New Jersey-American Water

Company, Inc. approved by and on file with the Board. Said rates shall remain in effect until modified by the Board.

The approvals granted hereinabove shall be subject to the following provisions:

1. This Order shall not be construed as directly or indirectly fixing for any purposes whatsoever the value of any tangible or intangible assets now owned or hereafter to be owned by New Jersey-American Water Company, Inc.
2. This Order shall not effect nor in any way limit the exercise of the authority of this Board or of this State in any future petition or in any proceedings with respect to rates, franchises, services, financing, accounting, capitalization, depreciation, or in any other matters affecting New Jersey-American Water Company, Inc.
3. In an appropriate subsequent proceeding, New Jersey-American Water Company, Inc. shall have the burden of demonstrating whether, and to what extent, any of the costs associated with this petition shall be allocated to ratepayers. Approval of this municipal consent does not include authorization to include in rate base the specific assets that will be completed as a result of the new territory.
4. Approval of this municipal consent ordinance does not constitute Board approval of any costs or expenses associated with this petition. Any determination as to the appropriateness or reasonableness of the costs and expenses related to the franchise, including but not limited to, cost of construction, contributions in aid of construction, the cost of connection, or any related capital improvements, and the allocation of such costs and expenses, shall be made in an appropriate subsequent proceeding.

DATED: **July 23, 2004**

BOARD OF PUBLIC UTILITIES
BY:

SIGNED

JEANNE M. FOX
PRESIDENT

SIGNED

CAROL J. MURPHY
COMMISSIONER

SIGNED

CONNIE O. HUGHES
COMMISSIONER

SIGNED

JACK ALTER
COMMISSIONER

ATTEST:

SIGNED
KRISTI IZZO
SECRETARY

**In the Matter of the Petition of New Jersey-American Water Company, Inc. for
Authorization and Approval of the Grant of a Municipal Consent to New Jersey-
American Water Company, Inc. to Serve the Township of Oxford, County of Warren**

BPU Docket No. WE03020111

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